

Circular of the State Administration of Taxation on the Issues Concerning Implementation of the Preferential Income Tax for Hi-Tech Enterprises

Guo Shui Han [2009] No. 203

The state tax bureaus and local tax bureaus of provinces, autonomous regions, municipalities directly under the Central Government and separately planning cities,

For the purpose of implementing the preferential income tax of hi-tech enterprises and transitionally preferential policies, in accordance with the *Enterprise Income Tax Law of the People's Republic of China* (hereinafter referred to as Enterprise Income Tax Law) and the *Implementation Regulations of the Enterprise Income Tax Law of the People's Republic of China* (hereinafter referred to as Implementation Regulations) and related taxation provisions, the related issues are hereby notified as follows:

Article 1 In case of any hi-tech enterprise whose enterprise income tax may be levied at the reduced tax rate of 15% in a year or which enjoys the transitional taxation preference in accordance with the *Circular of the State Council on Implementing Transitional Preferential Taxation for Hi-Tech Enterprises in Special Economic Zones and Shanghai Pudong New Area* (Guo Fa [2007] No. 40) and whose requirements for tax reduction or exemption change in the same year when the relevant preferential taxation is actually implemented, tax treatment shall be done in accordance to Paragraph 2 of Article 9 of the *Circular of the Ministry of Science and Technology, the Ministry of Finance and the State Administration of Taxation on Printing and Distributing Measures for the Administration of Identification of Hi-Tech Enterprises* (Guo Ke Fa Huo [2008] No. 172).

Article 2 The hi-tech enterprises that originally enjoy the regular deduction or exemption of enterprise income tax within the prescribed period according to law and simultaneously conforms to the qualifications of Article 1 of this Circular may, in accordance with the *Measures for the Administration of Identification of Hi-Tech Enterprises* and related provisions of the Circular of the Ministry of Science and Technology, the Ministry of Finance and the State Administration of Taxation on Printing and Distributing the *Guidance on Identification of High-New Technology Enterprises* (Guo Ke Fa Huo [2008] No. 362), enjoy the transitional policies on implementing the regular tax deduction or exemption that are not mature till the expiration thereof as of January 1, 2008 after acquiring the hi-tech enterprise qualification certificates issued by accrediting agencies based on new standards.

Article 3 For the hi-tech enterprise that was established in the period from January 1, 2006 to March 16, 2007 but still failed to make profits (the amount of taxable income is zero after making up for the loss of previous years) by the end of 2007, after it has acquired the hi-tech enterprise certificate issued by accrediting agencies based on new standards in accordance with the related provisions of the *Measures for the Administration of Identification of Hi-Tech Enterprises* and the *Guidance on Identification of High-New Technology Enterprises*, the period for its tax exemption

shall be computed as of January 1, 2008 according to the provisions of Article 57 of the Enterprise Income Tax Law.

Article 4 Any qualified hi-tech enterprise after identification (re-examination) may apply for preferential enterprise income tax from the year when the approval of identification (re-examination) is valid. After acquiring the hi-tech enterprise certificate issued by hi-tech enterprise identification administration agencies of provinces, autonomous regions, municipalities directly under the Central Government and separately planning cities, a hi-tech enterprise may hold the “hi-tech enterprise certificate” and its copies and relevant materials to apply to the competent tax authority for handling the formalities of reduction or exemption of tax. Consequently, the hi-tech enterprise may make pre-declaration of enterprise income tax payment or enjoy transitional preferential taxation at the tax rate of 15%.

Article 5 During the period from the expiration of tax year to the time when the annual tax return is submitted, the hi-tech enterprise that has gone through the formalities of deduction or exemption of tax shall go to the competent tax authority for recordal of the following materials:

(I) Statement on the scope of products (service) belonging to High and New Technology Fields under Key Support of the State;

(II) List of annual enterprise research and development expenses (see the attachment);

(III) Statement on the proportion of the revenues of hi-tech products (service) of the current year among the gross revenues of enterprise; and

(IV) Statement on the proportion of the scientific and technical personnel with academic degree of professional college and above among total employees of the enterprise of the current year and on that of the research and development personnel among total employees of the enterprise of the current year.

Calculation and filing procedures of the above-mentioned materials are subject to the relevant provisions of the *Guidance on Identification of High-New Technology Enterprises*.

Article 6 Any enterprise that fails to acquire the hi-tech enterprise qualification or has acquired the hi-tech enterprise qualification but does not meet the enterprise income tax law and its implementation regulations or the relevant requirements of this Circular shall not enjoy the preference for hi-tech enterprises; and those that have enjoyed such preference treatment shall recover the reduced or exempted enterprise income tax.

Article 7 The Circular shall take effect as of January 1, 2008.

Attachment: List of annual enterprise research and development expenses (omitted)

State Administration of Taxation
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